USTELECOM
THE BROADBAND ASSOCIATION

May 17, 2013

<u>Ex Parte</u>

Ms. Marlene Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, D.C. 20554

Re: <u>Connect America Fund, WC Docket No. 10-90</u>

Dear Ms. Dortch:

In previous ex partes, USTelecom and price cap companies have discussed the tension between language in the *USF/ICC Transformation Order* and rules that, on one hand, appear to direct companies to allocate certain frozen legacy high-cost support (IAS, ICLS and LSS) to the calculation of interstate access charges but, on the other hand, also appear to direct companies to spend increasingly larger amounts of this same frozen legacy high-cost support on building and operating broadband networks in certain areas.[1]

In Paragraph 149 of the *USF/ICC Transformation Order*, the Commission set out its intent under Phase I of the Connect America Fund (CAF) program to transition federal high-cost support to price cap carriers to supporting modern communications networks. Paragraph 150 of that Order mandates that all carriers receiving frozen legacy high-cost support must use at least one-third of that support in 2013 (and two-thirds in 2014) to build and operate broadband-capable networks in areas substantially unserved by an unsubsidized competitor. In order to effectively maximize the amount of broadband supported by this aspect of Phase I of the CAF program, this requirement should be implemented to the extent practicable within the state to which support was allocated prior to the freeze, and on a holding company basis thereafter. Under this approach, the July 1, 2014, certification under 47 C.F.R 54.313(c)(2) would state that one-third of frozen high-cost support was used by the price cap company that receives it to support broadband in areas substantially unserved by an unsubsidized competitor in the state to which that support was allocated in 2011. Any of the one-third of frozen support that was not used by that price cap company in that state would be used to support broadband-capable networks in areas substantially unserved by an unsubsidized competitor in other locations that the company serves. This approach would also apply to the rate-of-return affiliates of price cap carriers, to the extent those affiliates are also subject to 54.313(c)(2).

[1] *See* Letter from Jonathan Banks, USTelecom, to Marlene Dortch, FCC, WC Docket No. 10-90 and CC Docket No. 01-92 (filed Apr. 15, 2013).

Pursuant to Commission rules, please include this ex parte letter in the above-identified proceeding.

If you have any questions, please contact me.

Sincerely,

Jonathan Banks
Senior Vice President, Law & Policy

c: Carol Mattey